



BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

In the Matter of Applications of)	WT DOCKET NO. 02-179
RESORT AVIATION SERVICES, INC.)	
)	
For Renewal of Aeronautical Advisory)	CERTIFICATION ON EXCERPTS FROM
Station WYT9 , Coeur d'Alene Airport,)	DEPOSITIONS OF GREG DELAVAN AND
Hayden, Idaho)	PHILLIP CUMMINGS
)	
and)	
KOOTENAI COUNTY COEUR		
D'ALENE AIRPORT)	
)	
For a New Aeronautical Advisory)	
Station at Coeur d'Alene Airport,)	
Hayden, Idaho)	

Scott W. Reed, attorney for Resort Aviation Services, Inc., certifies
as follows:

On December 5, 2002, the depositions of Greg Delavan and Phillip Cummings were taken. Partial copies of the deposition were delivered to me on December 18, 2002 and the same appeared to be accurate transcriptions what I heard and said.

Attached hereto are true and correct copies of the following pages to which reference is made in the Brief of Resort Aviation submitted on this date. With the condensed version more than the cited quotation reference will appear.

CERTIFICATION

No. of Copies rec'd 0+6
List of CODE

1. Deposition Greg Delavan, pages 37, 45, 46, 48, 50, 53, 54, 57, 58, 78, 98 and 101.

2. Deposition of Phillip Cummings, pages 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 30 and 31.

Dated this 20th day of December, 2002



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I hereby certify that a true and exact copy of the foregoing was sent by Federal Express on December 20, 2002 to:

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and by regular mail, postage prepaid to:

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2 WASHINGTON, D.C. 20554

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4 In the Matter of Applications of)

5 RESORT AVIATION SERVICES, INC.)

6 For Renewal of Aeronautical Advisory)

7 Station WYT9, Coeur d'Alene Airport,)

8 Hayden, Idaho)

9 and)

10 KOOTENAI COUNTY)

11 COEUR D'ALENE AIRPORT)

12 For a New Aeronautical Advisory)

13 Station at Coeur d'Alene, Airport)

WT DOCKET NO. 02-179

COPY

14

15

16

17 DEPOSITION OF GREG DELAVAN

18 TAKEN ON BEHALF OF RESORT AVIATION SERVICES

19 AT COEUR D'ALENE, IDAHO

20 DECEMBER 5, 2002, AT 9:00 A.M.

21

22

23

24 REPORTED BY:

DAVID E. HIX, C.S.R.

Notary Public

25

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- (1) This is an ongoing process that happened over a few
(2) years.
(3) Q. And what was the reason for seeking it at
(4) that time?
(5) A. Because our ground personnel should be
(6) licensed to operate on the Common Traffic Advisory
(7) Frequency 122.8, so that they can advise aircraft and
(8) other traffic, other people authorized to operate on
(9) the AOA. of our monitors and our activities.
(10) When we approach the active surface we always
(11) announce on CTAF in accordance with the FAA
guidelines
(12) as most of the pilots do and most the people that are
(13) out there should.
(14) Q. Have you been in contact with any other
(15) airports about operation of the UNICOM licenses,
(16) whether these are handled privately or by public
(17) airport?
(18) A. Have I been -
(19) Q. Uh-huh.
1201 A. - with other airports -
1211 Q. Uh-huh -
(22) A. - about whether it's handled privately or
(23) by -
(24) O. Correct.
(25) A. No.

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- (1) Q. You ultimately made the determination to
(2) apply -
131 A. Yes.
(4) O. - at the airport?
(5) A. I did.
(6) Q. And the application made by Coeur d'Alene
(7) Airport bears the date of October 8, 2001. Were you
(8) served with a copy or did you receive a copy of their
(9) application for the FCC license?
(10) A. Whose application.
(11) O. Resort Aviation's application?
1121 A. No, not at that time.
(13) Q. When did you first see the Resort
(14) application!
(15) A. I don't recall, but it was not prior to our
(16) submittal.
(17) Q. The documents that have been provided by
(18) Resort Aviation to the FCC, and to me, indicate that on
(19) October 8, 2001, the application of Resort Aviation was
(20) sent to you and to Southfield Heli-Prop. Are you
(21) telling me that you never got it?
1221 A. I don't believe that's accurate.
(23) O. The memorandum in front of you, which is
(24) Exhibit 8, indicates that if Resort had made
(25) application and failed to provide you with a copy of

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- (1) the application that's grounds for dismissal?
(2) A. Are you asking me to read the memo?
131 Q. Well, I'm asking you if you had information
(4) to that effect?
(5) A. I don't understand your question, exactly.
(6) Q. Well, you're telling me right now that you -
(7) that you - let me get explicit here. Are you denying.
(8) on behalf of the Coeur d'Alene Airport, that you
(9) received a copy of the application of Resort Aviation
(10) Services to renew its license?
111 A. I believe we ultimately received a copy of
121 the application. But I don't think we did at that
131 time.
141 Q. When did you think you received it?
151 A. I don't recall, but it was sometime after the
161 fact.
171 Q. After your application?
181 A. Yes.
191 O. You're sure of that?
201 A. No.
211 Q. You're not sure of that?
221 A. No. I don't know that the sequence of events
231 is particularly relevant, but I don't recall having
241 seen it prior to that. And I don't recall having seen
251 a direct notification that we're either about to do

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- (1) this or have recently done this, nor do I think that
(2) anyone else at the airport was notified.
(3) MR. REED: Let's take a break. Can we stop
(4) for a minute?
(5) (Discussion held off the record.)
(6) (Exhibit 9 was marked for identification.)
(7) BY MR. REED:
(8) O. Exhibit No. 9, Mr. Delavan, is a copy of a
(9) letter from Resort Aviation stationery to Fred Miller
(10) to the Coeur d'Alene Airport on September 28, 2001, Do
(11) you recall seeing that letter?
1121 A. No, certainly not at that time.
(13) Q. Have you seen it at any time since?
(14) A. Oh, I saw it last night when I was digging
(15) through the stuff that you sent.
(16) Q. Not before then?
(17) A. No. Nor do I believe that this was in our
(18) file. When a letter like this would come in it would
(19) be stamped received and then go into Resort's file. and
(20) I certainly don't think it's there.
(21) Q. And of course the copy I'm providing to you
(22) is a copy from our files not from your files?
(23) A. I would presume so, yeah.
(24) (Exhibit 10 was marked for identification.)
(25) O. Exhibit No. 10 is the cover letter upon your

(1) his equipment on the airport he needs to announce his
 (2) movement across the active services. For example, if
 (3) he needs to supply fuel to the east side of the airport
 (4) when he's located on the west side and has to cross the
 (5) active runway 1/19, he must stop at the hold line and
 (6) look for traffic, have properly trained people who have
 (7) gone through their driver's training and properly
 (8) lighted vehicles and announce his intentions to Coeur
 (9) d'Alene traffic under the CTAF functions.
 (10) The common announcement would be Coeur
 (11) d'Alene area traffic, Southfield Fuel truck crossing
 1121 threshold 01. And upon his completion of that
 1131 crossing, he should announce Southfield Fuel - Coeur
 (14) d'Alene area traffic, Southfield Fuel truck clear the
 1151 active runway, runway 1/19, however he wants to term
 (16) it, Coeur d'Alene Airport.
 (17) So that's a common - common activity. If
 (18) you're going to cross the active runway at an
 (19) uncontrolled field, you should announce your intentions
 1201 so that an aircraft in the area that you may not be
 1211 able to see would hear you, and his ground vehicles
 1221 need to be licensed or he needs to have a radio station
 1231 license to do that.
 (24) That became very evident when the enforcement
 (25) people came over. We need to do that as well. As the

(1) airport operator we announce our intentions, and every
 (2) time I do a runway inspection I announce that I'm out
 (3) there. Any time I cross that runway I announce that
 (4) I'm out there.
 (5) Q. And you can do that at the present time?
 (6) A. We do that at the present time.
 (7) Q. You do it?
 (8) A. The FAA guidelines require us to do that.
 (9) Q. Right. And you do that?
 (10) A. However, we should be licensed to do that,
 (11) and we're not currently licensed to do that.
 (12) Q. You are currently licensed to use the CTAF.
 (13) are you not?
 (14) A. No. Now, I personally am licensed to use the
 (15) CTAF but only by virtue of being a qualified pilot.
 (16) Most of my crew are not because they're not pilots.
 (17) Therefore, they're not authorized, and yet we do it
 (18) because it's a safety related issue.
 (19) Q. My understanding -
 (20) A. We need a license so that we can legally
 (21) perform the functions required by the FAA.
 (22) Q. Well, I understand -
 (23) A. And we require that of Southfield Fuel and
 1241 Hans Dyroy or any other operators out there that needed
 (25) to do the same thing.

(1) Q. But Southfield Fuel does use the CTAF at the
 (2) present time?
 (3) A. They do.
 (4) Q. And no one has come to tell them that they
 (5) shouldn't?
 (6) A. Well, no. I don't know that anyone has come
 (7) to tell them that they shouldn't, I certainly have
 (8) not. As a matter of fact, I would tell them that they
 (9) should.
 (10) Q. They should and they do?
 (11) A. Yes.
 (12) Q. And they've been doing to regularly since
 (13) you've been there?
 (14) A. Yes. as do any of the operators of the CTAF
 (15) AOA including the FAA and including Air Force
 (16) Operations Staff. The FAA does the same thing when
 (17) they come out.
 (18) Q. You don't need a UNICOM license to do that do
 (19) they?
 (20) A. They need to be licensed to operate on the
 1211 frequency. And the FCC license for aeronautical
 1221 advisory is the UNICOM license. Pilots, by virtue of
 (23) their pilot certificate, have the authority to use
 1241 that. You should probably get all of this out of the
 1251 regulations as opposed to from me.

(1) Q. But others on the airport use the CTAF?
 (2) A. Yes.
 (3) Q. And up to the present time Mr. Booher has
 (4) been able to do that without any hesitation, any
 (5) problem?
 (6) A. I can't speak to his hesitation or problems.
 (7) Q. But I mean he does it on a regular basis -
 (8) A. Yes.
 (9) Q. - as far as you know?
 (10) A. It's a safety requirement -
 (11) Q. It's a safety requirement?
 (12) A. - by the FAA.
 (13) Q. Right.
 (14) A. And the FAA rules and the FCC rules don't
 (15) necessarily match 100 percent.
 (16) Q. But your safety procedures at the airport
 (17) require that kind of a notification, do they not?
 (18) A. Yes.
 (19) Q. So as far as matters are presently concerned
 (20) nothing further needs to be done in order to allow
 (21) Mr. Booher to continue the practice that he's been
 (22) following?
 1231 A. I did not say that.
 (24) Q. I'm asking that question.
 (25) A. No. I believe he needs to be licensed to be

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(1) able to do that legally. I believe he needs to be FCC
 (2) licensed to be able to legally do that.
 (3) Q. What we presently know is there can be only
 (4) one UNICOM license – at least this was the
 (5) interpretation that's being begin to us – only one
 (6) UNICOM license at the airport, that's what we've been
 (7) told?
 (8) A. Okay.
 (9) Q. We have not been told any information about
 (10) the ability of any holder of a UNICOM permit to license
 (11) anybody else. Are you aware of any arrangement?
 (12) A. I've been told of that. I'm not aware,
 (13) specifically, of the technical aspects of the
 (14) arrangement.
 (15) Q. What have you been told?
 (16) A. The young lady who came to investigate
 (17) complaints for the enforcement activities –
 (18) Q. This is Kris McGowan or whatever her name is?
 (19) A. I don't know that it was Kris McGowan.
 (20) You're tying to – you're tying the applicant to this
 (21) investigation.
 (22) Q. Excuse me. I wasn't trying to put words in
 (23) your mouth.
 (24) A. I'm not willing to do that.
 (25) Q. Is there another person?

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(1) A. There could very well be. I don't recall her
 (2) name –
 (3) Q. All right.
 (4) A. – it maybe. My conversations with her were
 (5) somewhat limited. But I did talk to her. and I do know
 (6) that she advised us that the best way for us to operate
 (7) and get all the people properly licensed to follow the
 (8) FAA guidelines regarding communication on CTAF and
 (9) Coeur d'Alene Airport was to submit for the license and
 (10) sublicense to the other operators. That would allow us
 (11) to develop a training protocol and assure that they
 (12) were following the training protocol.
 (13) Q. Could that same procedure be followed by
 (14) Resort Aviation Services, of sublicensing?
 (15) A. I don't know.
 (16) Q. Any particular reason why not that you're
 (17) aware of?
 (18) A. Why, I don't know or –
 (19) Q. No. No. No. She's saying that others could
 (20) be sublicensed in order to legitimize their CTAF
 (21) communications?
 (22) A. Yes, that's pretty much what she said.
 (23) Q. And so the information she was conveying then
 (24) would be that whoever held the UNICOM license could
 (25) give sublicenses to others as necessary, provide a

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(1) training program?
 (2) A. My recollection of the conversation was she
 (3) was more specific than that. You should ask for the
 (4) license, request that all of the licenses be denied,
 (5) and then you, as the airport authority, could
 (6) sublicense to the other people who needed to operate
 (7) on the airport; that's my recollection of the
 (8) conversation. We didn't get into the other parameters
 (9) that you're describing.
 (10) Q. And Mr. Booher had express an interest in
 (11) becoming a UNICOM operator. I think that's the way –
 (12) the answer to the interrogatory came?
 (13) A. Yes, and I probably should have probably been
 (14) more specific in the letter; that he would like to be
 (15) licensed to operate on UNICOM. It does not necessarily
 (16) mean that he wants to provide the UNICOM functions.
 (17) And most of our – I'm very clear on the difference
 (18) between UNICOM and CTAF. It would appear that
 (19) maybe the other people involved in this process are not.
 (20) There is a difference.
 (21) Q. Why don't you explain one more time the
 (22) difference?
 (23) A. Oh, I think you ought to look it up yourself.
 (24) Q. Well, no, you're very clear about it, And if
 (25) you're clear about the Code of Federal Regulations, I'm

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(1) here to learn.
 (2) A. I actually have a copy of the Code of Federal
 (3) Regulations, and I think we've provided you with the
 (4) FCC guidelines and the FAA guidelines. As I said, they
 (5) don't necessarily coincide. However, we will follow
 (6) the FAA guidelines regarding safety –
 (7) Q. Right.
 (8) A. – and will attempt to follow the FCC
 (9) guidelines as much as we possibly can; therefore. our
 (10) request for the license.
 (11) Q. But at the present time you are following the
 (12) FAA guidelines for safety?
 (13) A. We are.
 (14) Q. And so any – anyone out there who is engaged
 (15) in the sort of conduct that Mr. Booher is described as
 (16) doing, that is crossing a runway or doing something
 (17) like that, must follow the CTAF requirements?
 (18) A. Must or should? They certainly should.
 (19) Q. Should.
 (20) A. Must they, I believe they must according to
 (21) FAA regulations including Resort or Action Aviation or
 (22) Aerostar or Panhandle Helicopter or any other various
 (23) private or corporate entities that are doing much the
 (24) same thing. If they enter the aircraft operating area
 (25) and cross that active runway, they should announce

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- (1) their intentions before they cross that hold line.
- (2) Q. Am I to understand then that the use that
- (3) would be made by Heli-Prop or by Action Flying would be
- (4) limited to being qualified to communicate CTAF?
- (5) A. You know, I'm not - I'm not here to limit
- (6) them at this point. You know, I haven't discussed
- (7) limitations on their activity. What we're trying to
- (8) provide for them to legally make their safety
- (9) announcements when they're moving on the field. I've
- (10) had no discussions with anyone about limitations.
- (11) Q. Well, what I'm trying to -
- (12) A. None of them have expressed an interest in
- (13) operating any UNICOM functions. Is that where you're
- (14) trying to go?
- (15) Q. That's what I'm trying to establish.
- (16) A. No one has asked for that.
- (17) Q. Okay.
- (18) A. But there's a distinction difference between
- (19) the UNICOM aeronautical information dissemination
- (20) function and the Common Traffic Advisory Function. It
- (21) happens all on the same frequency.
- (22) Q. All right. So when you're talking about
- (23) issuing licenses it would be to issue licenses to
- (24) entities so that they may use the CTAF communication?
- (25) A. Yes. However, it's commonly called the

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- (1) UNICOM frequency, so a license to operate on that
- (2) frequency that's really the issue.
- (3) Q. If - and I'm asking now for what you would
- (4) contemplate doing were the FCC to award the UNICOM
- (5) license to you. If you are talking about issuing a
- (6) license, would the license that you issue allow Booher
- (7) to operate the UNICOM?
- (8) MR. CAFFERTY: Objection calls for
- (9) speculation unto facts that are -
- (10) A. I can't answer that anyway.
- (11) BY MR. REED:
- (12) Q. Well, it's your license. You're talking
- (13) about issuing a license.
- (14) A. No, I'm not. I'm talking about a letter of
- (15) authorization so that people can operate on our
- (16) license. The FCC as the authority to issue the
- (17) license.
- (18) Q. Okay.
- (19) A. I do not, and I would not, in my opinion,
- (20) under those circumstances.
- (21) Q. This is what I'm trying to get at. What -
- (22) what authority are you giving to Booher or Dyroy to use
- (23) that frequency?
- (24) A. And I really can't respond to that at this
- (25) time, because I have no authority to give them anything

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- (1) at this time.
- (2) Q. I know you have no authority.
- (3) A. We have not designed a letter - we haven't
- (4) even got a specific request at this time. So I'm not
- (5) prepared to answer that question.
- (6) Q. What I want to know is if you got the UNICOM
- (7) license, would a Booher or a Dyroy be allowed, in your
- (8) opinion, to use the UNICOM system, to be a UNICOM
- (9) operator?
- (10) A. In general terms we would like, whether it's
- (11) a sublicense or letter of intent, I don't know the
- (12) mechanism that we will create to authorize them, but I
- (13) would like them to be able to legally announce their
- (14) intentions for movement on the airport to satisfy
- (15) safety concerns.
- (16) Q. Satisfy the CTAF?
- (17) A. Safety concerns.
- (18) Q. Safety concerns?
- (19) A. Correct.
- (20) Q. Okay. Your answer continues, because I asked
- (21) you if there were anybody else that you had discussions
- (22) with. And you said these discussions did not limit
- (23) themselves to the operation of the UNICOM per se, but
- (24) also included discussions relating to operating on the
- (25) same frequency as the UNICOM or CTAF?

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- (1) A. That sounds consistent. My phone is ringing
- (2) again. This is an emergency phone. and I'm going to
- (3) ask Phil to take this.
- (4) MR. REED: Off the record.
- (5) {Discussion held off the record.}
- (6) A. I'm not quite sure what you're trying to get
- (7) at.
- (8) Q. Well, I think it's the same course of
- (9) discussion, but you're saying it wasn't the operation
- (10) of the UNICOM per se that had to do with the operating
- (11) from the CTAF. So you're talking for others who might
- (12) be interested. It was the same thing as you're talking
- (13) about for Booher and Dyroy?
- (14) A. Yeah. So they can legally communicate their
- (15) movements on the field. Again, this is at the
- (16) suggestion of the FCC people, a person who visited.
- (17) Q. And would these licenses, as you would
- (18) anticipate, be available to - from the Coeur d'Alene
- (19) Airport - be available to everybody who had any need
- (20) to use the CTAF who was out there?
- (21) A. You know. as we really haven't gone that far,
- (22) we haven't got the license yet. I would like those who
- (23) routinely and for long term to be licensed to do so.
- (24) There are times when - when we have spotters out there
- (25) during a project that are authorized to recognize

{1} interference between aircraft and ground movement
 {2} vehicles that will, say stop them, that my even belong
 {3} to a contractor. There's no need for them to be
 {4} licensed. They at that point are operating under our
 {5} authorization for safety operation in accordance with
 {6} the safety plan of the project.
 {7} So it's a – your definition there is broader
 {8} than I would be prepared to take it. And yet we have
 {9} not developed the guidelines as to who should and who
 {10} should not. However, I would like those people who
 {11} need to move in the Aircraft Operating Area, AOA, to be
 {12} licensed to do so and announce their intentions. That
 {13} might even be the FAA, because they come onto our
 {14} airport, and they move across the field, and I don't
 {15} know that they're licensed properly either.
 {16} Q. Let me follow-up a little bit. Am I to
 {17} understand that if the FCC granted the UNICOM license
 {18} to the Coeur d'Alene Airport that the Coeur d'Alene
 {19} Airport would then assume the full functions of
 {20} operating that UNICOM procedure?
 {21} A. Not necessarily.
 {22} Q. What would you not do?
 {23} A. Again, you're asking me to speculate. I
 {24} really don't desire to do the UNICOM functions. We
 {25} certainly could be properly trained and provide that

{1} the what and when, and I don't have that.
 {2} Q. But if Resort Aviation Services were
 {3} determined to be properly operating its UNICOM system,
 {4} would it be your intention, if the license were issued
 {5} to you, to then sublicense it to Resort?
 {6} A. That's a possibility.
 {7} Q. Is there anyone else out there on that
 {8} airport that you feel could be qualified to operate the
 {9} UNICOM, other than your outfit?
 {10} A. There are a number of other people that could
 {11} be. You know, if Aerostar, for example, who has shown
 {12} no interest whatsoever – they've got a number of very
 {13} talented people down there – if they showed an
 {14} interest, I think they could be qualified.
 {15} Q. But they haven't shown an interest?
 {16} A. No.
 {17} Q. Do the Aerostar –
 {18} A. I think even you could be qualified, Scott –
 {19} Q. There's absolutely no way.
 {20} A. – but at this point you're not.
 {21} Q. I take it that a major driving factor in what
 {22} you're talking about here has to do with safety
 {23} concerns. You want to make sure that everyone who has
 {24} any reason to contact or use CTAF is authorized to do
 {25} so and can do so?

{1} function, but that's not something that I really wish
 {2} to do.
 {3} Q. It's not something you wish to do?
 {4} A. That's correct.
 {5} Q. Well, who is going to do the UNICOM function
 {6} then?
 {7} A. It very well could be licensed to Resort, if
 {8} Resort was interested in continuing to provide that
 {9} function. We used to have a very good UNICOM
 {10} operation
 {11} out there when Empire had that FBO. There were no
 {12} questions and no problems with it at that time. I'd
 {13} much rather have someone else do that properly.
 {14} Q. And your position is that Resort is not doing
 {15} it properly?
 {16} A. Well, now you're stretching into another
 {17} area. We're talking about licensing, and you're going
 {18} back to –
 {19} Q. Well –
 {20} A. We've had some problems and some complaints
 {21} with Resort. They – they – they have not
 {22} demonstrated that their people really fully understand
 {23} the function, and I've witnessed some improper
 {24} transmissions.
 {25} Q. Tell me –
 {26} A. I would like them – yeah, here we go back to

{1} A. Exactly.
 {2} Q. And as far as Kootenai County is concerned
 {3} you have at this point no particular wish to be the
 {4} UNICOM operator at the airport, if someone else is
 {5} qualified to do it?
 {6} A. The UNICOM operator is a broad term.
 {7} Q. To operate the UNICOM?
 {8} A. It's a broad term. You know, we wish to be
 {9} licensed to operate on the UNICOM frequency. which
 {10} according to the FAA guidelines makes us the UNICOM
 {11} operator. And yes, we do – do I wish to have my staff
 {12} respond to each and every pilot inquiry? **No**, we don't,
 {13} but we certainly could because we know the information
 {14} that they're requesting, and we have ample information
 {15} to disseminate to them.
 {16} For example if the official weather for the
 {17} airport is reported direct to our office, we have that
 {18} available. It's typically what they're asking for.
 {19} Q. And that information is also available
 {20} through another source, is it not?
 {21} A. My hope is that they would dial that up and
 {22} get it from the continuous broadcast. Most of the
 {23} pilots that operate at the Coeur d'Alene Airport do not
 {24} use UNICOM. Pilots that regularly operate at the Coeur
 {25} d'Alene Airport very rarely use UNICOM. They always

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(1) respond. When a pilot calls Coeur d'Alene UNICOM that
 (2) should key them to respond to that pilot. If a pilot
 (3) simply states their position, intention and makes no
 (4) request regarding airport information, UNICOM should
 (5) remain silent.
 (6) Q. Okay, I got it?
 (7) A. The UNICOM function difference from CTAF is
 (8) that I would like to provide the opportunity for all
 (9) operators on the Coeur d'Alene Airport to legally
 (10) announce their intentions for movement around the
 (11) airport on that CTAF frequency.
 1121 O. Okay. Understood that part, and that cleared
 1131 it up a little better for me actually. But I think I
 (14) can phrase my question now in such a fashion so that
 (15) you understand what I'm trying to get across. Given
 1161 this scenario that we're discussing, that if the Coeur
 (17) d'Alene Airport was the holder of the license, who
 (18) would be responsible to respond to the UNICOM request?
 (19) Would the Coeur d'Alene airport – is it envisioned
 (20) that the airport would allow any interested party who
 1211 so chose to get an agreement, whereby that entity could
 (22) respond to the UNICOM requests? Am I still losing you?
 (23) We're talking about CTAF and UNICOM
 (24) advisories or responding to UNICOM requests. They both
 1251 happen on the same frequency. The main thrust, as I

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(1) A. Yes and no.
 (2) Q. Okay.
 (3) A. If we're on the runway, we certainly announce
 (4) our Presence prior to entering the runway safety area
 (5) environment. The taxiways are also part of that
 (6) aircraft movement area, and we do not always announce
 (7) our movement on the taxiways. Prior to entering the
 (8) runway environment we do.
 (9) Q. Okay. And prior to entering the runway
 10 environment do you announce on CTAF?
 11 A. Yes –
 12 Q. That's a question?
 131 A. – to the Coeur d'Alene area traffic.
 141 O. And that's 122.8, and what's the UNICOM
 151 frequency?
 16 A. The same.
 17 O. So if you are announcing that when you enter
 18 the runway and Resort Aviation is operating the UNICOM
 19 on 122.8, they should hear that then?
 20 A. They certainly should.
 211 Q. So what would be the – strike that. So the
 22 basis for the airport applying for the UNICOM license
 23 then is so that they can comply with the FCC
 24 regulations while they're doing what is mandated to
 251 comply with the FAA regulations?

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(1) see it from sitting through here today – and as this
 (2) process has unfolded – is that the airport has
 (3) concerns that in order to comply with the mandates of
 (4) the FAA, they maybe running afoul of requirements of
 (5) the FCC. And in order to alleviate that, the airport
 (6) is seeking to have the UNICOM, 122.8, so that they can
 (7) make agreements with entities that are regularly using
 (8) the airport facilities so that those individuals can
 (9) operate on 122.8 or CTAF.
 (10) That still leaves out there who will be
 (11) responding to the UNICOM requests from pilots seeking
 (12) information about the airport. Who would be responding
 (13) to that if the airport were to obtain this license?
 (14) A. In my opinion that remains to be determined.
 (15) O. So it could be anyone that meets the
 (16) requirements, has the facilities and they do a proper
 (17) job would be your answer then, I'm guessing?
 (18) A. Yes.
 (19) Q. Kind of working backwards from where we just
 (20) ended here. If airport personnel are on the airport –
 1211 and by the airport I mean the paved surface, including
 (22) the runways and the taxiways and the surrounding areas
 (23) that are open to the movement of aircraft – if airport
 (24) personnel are on the active airport area, do they
 (25) announce their presence out there?

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(1) A. That's correct.
 (2) O. I want to go back and look at Exhibit 10. I
 (3) apologize. I'm going backward because some of those
 (4) you already answered. We don't need to look at 10.
 (5) Why – you testified earlier that you don't recall
 (6) sending this letter, the October 28, 2001 letter to the
 (7) Federal Communication Commission. You don't – you
 (8) didn't recall having sent that to Resort Aviation; is
 (9) that correct?
 10 A. That's correct.
 11 Q. Was there – to the best of your knowledge is
 12 there any reason why you would have had to send it to
 131 Resort Aviation?
 14 A. No.
 151 Q. And why weren't you required to send it to
 161 Resort Aviation?
 17 A. The guidelines are fairly specific, in my
 18 opinion. that because we have an RCO on the field this
 19 is not required. And furthermore, there's some other
 20 language about the airport owner/operator not being
 21 responsible to notify the others, so both of those.
 22 Q. And would that likewise apply to the
 231 application for the UNICOM that you sent to the FCC,
 24 the notice to Resort Aviation?
 251 A. I'm sorry. I'm confused on the question. I

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(1) Q. Upon request. And then if there's a further
 (2) request, oh, what do you have down there, they will
 (3) provide – say if there's fuel available or maintenance
 (4) available, that sort of thing?
 (5) A. Yeah. The pilot should not ask what do you
 (6) have down there. He should be specific in his
 (7) request. There's protocol to follow –
 (8) Q. All right.
 (9) A. – and it's –
 (10) Q. But they do –
 (11) A. – fairly well outlined.
 (12) Q. But they do respond. When John was asking
 (13) you – assuming that the airport, Coeur d'Alene
 (14) Airport, received the UNICOM license that you would
 (15) give consideration to who was going to actually carry
 (16) out that UNICOM function. In other words, who was
 (17) going to be the entity that responded when the inquiry
 (18) came from the pilot up there on UNICOM saying: I'm on
 (19) UNICOM. I want to know what the weather is. what the
 (20) safety conditions are. There would be an entity that
 (21) would have to respond to that, would there not?
 (22) A. Have to respond?
 (23) Q. Well, if you got the UNICOM license you're
 (24) supposed to do what?
 (25) A. That's correct. and yet it's not particularly

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(1) responsibility? Is that something that you thought
 (2) about?
 (3) A. No. I haven't. I didn't initiate that nor
 (4) have I been involved in the conversation.
 (5) Q. So at this point you simply haven't made –
 (6) haven't got to that place yet of determining –
 (7) A. Correct.
 (8) Q. Okay. And finally, the channels, you say
 (9) that everyone with your group has a radio?
 (10) A. No.
 (11) Q. With the airport?
 (12) A. I don't think I'm going that far to say
 (13) everyone with our group.
 (14) Q. Most of them do?
 (15) A. We require people when they enter the AOA,
 (16) that's specifically the active runways, to have a radio
 (17) and use it.
 (18) Q. And those radios are provided by your
 (19) company?
 (20) A. To airport personnel, yes.
 (21) Q. And they have four channels?
 (22) A. Some of them have more than that, but those
 (23) are the four channels that most of our radios, our work
 (24) radios, have.
 (25) Q. Okay. Are any of these channels on the 122.8

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(1) specific about what you have to do and the hours of
 (2) operation and that kind of thing. But it is fairly
 (3) specific about the information you provide and should
 (4) not provide.
 (5) Q. Right. But when you get a UNICOM license, by
 (6) you I'm talking about any entity that has a UNICOM
 (7) license, must then follow the protocol that is
 (8) established for the UNICOM license?
 (9) A. They certainly should.
 (10) Q. And as I understood John was asking you, if
 (11) as it would develop, that you would set up a situation
 (12) where others could respond on your UNICOM license,
 (13) carrying out the UNICOM function, somebody other than
 (14) the Coeur d'Alene Airport itself?
 (15) A. That's specifically contemplated. You know,
 (16) we haven't gone down that road yet to define the
 (17) parameters.
 (18) Q. There was some discussion, not here, but just
 (19) informal that I had with your attorney, in which there
 (20) was some suggestion of having a rotating method of
 (21) persons, one entity might have it for a month and
 (22) another might have it for a month. Has that been
 (23) something that's been contemplated?
 (24) A. I wasn't part of that conversation, so –
 (25) Q. Well, no. Are you aware of that as a

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(1) frequency?
 (2) A. I described how they're – how they're –
 (3) which frequency they're on. Essentially – do you need
 (4) me to describe that again? The aviation frequency is
 (5) 122.8. When they're on channel 1 it's a direct line to
 (6) 122.8 for both transmitting and receiving.
 (7) Q. Okay.
 (8) A. When they're on channel 2 the transmission
 (9) goes on a discrete frequency. It does not go out over
 (10) the airways. It goes through a repeater to only our
 (11) radios. However, you can always monitor the broadcast
 (12) of the CTAF. That allows us to work in that
 (13) environment and communicate with each other on the
 (14) radios without having to interfere with that CTAF
 (15) environment, and you'll still monitor it so that we
 (16) know if there's an aircraft that's letting down on us.
 (17) Channel 3 is completely discrete. It blocks
 (18) out the receiving of that – that 122.8 frequency.
 (19) Q. Okay.
 (20) A. Channel 4 is completely connected to central
 (21) dispatchers, which get us in touch with the sheriff and
 (22) fire departments.
 (23) Q. And all of those have been operating during
 (24) the time that you have – since you became airport
 (25) manager out there, not all the radios specifically, but

(1) I mean, that's been the general procedure, has it?
 (2) A. Correct.
 (3) Q. And nobody from the Federal Government has
 (4) come and told you that's that's an improper thing to
 (5) do?
 (6) A. No. As a matter of fact, we have licenses
 (7) for the other frequencies as well. It's the one that
 (8) we don't have the license for currently is 122.8. and
 (9) we should.
 (10) Q. And if you got a license for 122.8 through
 (11) some means, other than the UNiCOM, that would satisfy
 (12) your needs?
 (13) A. Not necessarily. I'm not prepared to jump to
 (14) that because I don't know what means other than the
 (15) **UNICOM** procedure there is to give that. So I don't
 (16) know where you're **going** with that one.
 (17) Q. No further questions.
 (18) (Signature Requested)
 (19) (Thereupon, the deposition concluded at 11:50 a.m.)
 (20)
 1211
 (22)
 (23)
 (24)
 1251

(1) CERTIFICATE OF WITNESS
 (2) i, GREG DELAVAN. being first duly sworn,
 (3) depose and say:
 (4) That I am the witness named in the foregoing deposition
 (5) consisting of pages 1 through 101; that I have read
 (6) said deposition and know the contents thereof; that the
 (7) questions contained therein were propounded to me; and
 (8) that the answers therein contained are true and correct
 (9) except for any changes that i may have listed on the
 (10) Change Sheet attached hereto.
 (11) DATED this day of, 2002.
 (12)
 (13) GREG OELAVAN
 (14)
 (15)
 (16)
 SUBSCRIBED AND SWORN to before me this day
 (17) Of, 2002.
 (18)
 (19) Name of Notary
 (20)
 (21) NOTARY PUBLIC FOR IDAHO
 (22)
 (23) RESIDING AT
 (24)
 (25) MY COMMISSION EXPIRES

(1) REPORTER'S CERTIFICATE
 (2) I, DAVID E. HIX, Certified Shorthand
 (3) Reporter, do hereby certify:
 (4) That the foregoing proceedings were taken
 (5) before me at the time and place therein set forth, at
 (6) which time any witnesses were placed under oath;
 (7) That the testimony and all objections made
 (8) were recorded stenographically by me and were
 (9) thereafter transcribed by me or under my direction;
 (10) That the foregoing is a true and correct
 (11) record of testimony given, to the best of my ability;
 (12) That I am not a relative or employee of any
 (13) attorney or of any of the parties, nor am I financially
 (14) interested in the action.
 (15) IN WITNESS WHEREOF, I have hereunto set my
 1161 hand and seal this 13th day of December, 2002.
 (17)
 (18)
 DAVID E. HIX. C.S.R. #1992
 (19) 816 Sherman Avenue
 Suite 7
 (20) Coeur d'Alene, ID 83814
 1211
1221
 (23)
 (24)
 (25)

1 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

2 WASHINGTON, D.C. 20554

3

In the Matter of Applications of)

4)

RESORT AVIATION SERVICES, INC.)

5)

For Renewal of Aeronautical Advisory)

6 Station WYT9, Coeur d'Alene Airport,)

Hayden, Idaho)

7)

and)

8)

KOOTENAI COUNTY)

9 COEUR D'ALENE AIRPORT)

)

10 For a New Aeronautical Advisory)

Station at Coeur d'Alene, Airport)

11

12

13

14

DEPOSITION OF PHILLIP CUMMINGS

15

TAKEN ON BEHALF OF RESORT AVIATION SERVICES

16

AT COEUR D'ALENE, IDAHO

17

DECEMBER 5, 2002, AT 11:55 A.M.

18

19

20

21 REPORTED BY :

22 DAVID E. HIX, C.S.R.

23 Notary Public

WT DOCKET NO. 02-179

COPY

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(1) suggestion. You, as the airport operator, fill your
 (2) application out and send a letter to the FCC
 (3) petitioning them to deny all other license requests
 (4) given that you would, as the operator of the airport,
 (5) holder of the UNICOM license, allow the other qualified
 (6) users or FBOs on your field to operate off of your
 (7) license.

(8) He said the FCC doesn't really want to issue
 (9) four licenses to one airport. By regulations we have
 (10) to, but if you guys would do this then we'll only have
 (11) one license and the chain of enforcement is a lot
 (12) easier for us. And I had said, okay, it sounds good to
 (13) me. He said several airports are – what he said was,
 (14) the trend was, because the UNICOM issue has been a
 (15) litigious one in the past years, FBOs fighting over it
 (16) so on and so forth, that they would – that he would
 (17) recommended that we do that. And basically, I guess,
 (18) that's how we got to where we are today.

(19) Q. But the contemplation then was to apply for
 (20) the Coeur d'Alene Airport to have the UNICOM license
 (21) and then have a number of other FBOs or other entities
 (22) be also able to use the UNICOM license?

(23) A. Right. By letter of agreement, it's done in
 (24) several other places in the country.

(25) Q. By letter of agreement?

(1) this particular airport supplies the equipment.

(2) Q. Right.

(3) A. When that radio is keyed through the repeater
 (4) that sits at the airport office no one else can talk on
 (5) it. So another FBO cannot step on it, okay. Gary
 (6) Latellia over in, I believe it's Bend, Oregon, they
 (7) actually run the airport – the airport actually runs
 (8) the UNICOM, okay, with FBO personnel.

(9) Q. All right.

(10) A. Okay. That worked for them. Dayton Beach –
 (11) it's just outside of Dayton Beach. I don't know the
 (12) gentleman's name. They did it by some rather
 (13) stringent, you know, letter of agreement and some
 (14) rather stringent regulations of their own.
 (15) They have the license and the three different
 (16) FBOs are suboperators off of their license. And he
 (17) said we don't have a problem now. He said if – if
 (18) they hear of any misuse on it, they go down and they
 (19) pull that letter of agreement off the wall, which is
 (20) required to be there just like a license is. And once
 (21) it's pulled, if they access it, they turn them into the
 (22) FCC, and the FCC violates them.

(23) I don't think we want to go to that extreme,
 (24) but as an example several different airports handle it
 (25) different ways. We haven't got to that decision point

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(1) A. Yes. That way Resort would still have the
 (2) opportunity to operate UNICOM, as would Southfield, as
 (3) would Action Flying Service.

(4) Q. Was there any discussion at all about any
 (5) problems in that operation? Well, let me back up.
 (6) Never mind what I just said.

(7) A. Okay.

(8) Q. Those of us who have not been deeply involved
 (9) in this are struggling somewhat with the mechanical
 (10) aspects of this, so bear with me. UNICOM operation is
 (11) one where the UNICOM operator on the ground responds to
 (12) an inquiry from a pilot coming in asking for certain
 (13) information?

(14) A. Correct, yes.

(15) Q. And that primary information has to do with
 (16) weather and conditions of the runway; that sort the
 (17) situation?

(18) A. Correct.

(19) Q. If you have what you're just talking about,
 (20) four possible users on sublicenses under the airport,
 (21) when that pilot coming in calls, who answers?

(22) A. That is a problem, isn't it? We've talked
 (23) with probably a dozen airports in the US. who handle
 (24) it several different ways: One is a simple repeater
 (25) system that we supply the equipment. or I should say

(1) yet to get the entities who would choose to operate
 (2) this together to say, okay. help us put together
 (3) something to make this work; that's all we're trying to
 (4) do. So how specifically we would choose to do it at
 (5) Coeur d'Alene, I don't know. We have looked at a lot
 (6) of different things and –

(7) Q. But you're still uncertain?

(8) A. Oh, I think we'd use the letter of agreement
 (9) enforcement, and we have looked into supplying the
 (10) radio gear, which is probably the cleanest we've seen.
 (11) But we've made no decision on how that would actually
 (12) take place.

(13) Q. Supplying the radio gear means what?

(14) A. We buy – Resort wants to operate UNICOM. We
 (15) supply them a radio. That radio is keyed through out
 (16) repeater.

(17) Q. Okay.

(18) A. So UNICOM gets a call. They answer it. The
 (19) airport Southfield and Action Aviation cannot step on
 (20) it. That's the only clean fair way to do it.

(21) Q. But this ends up designating one as the –

(22) A. No. No, because if Heli-Prop answers the
 (23) call, Resort can't step on them.

(24) Q. Is it first in time then?

(25) A. Yes. Once the repeater is keyed, you can't

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(1) the UNICOM from 8 o'clock until generally 5 o'clock in
 (2) the evening, and we operated on the off hours -
 (3) A. so -
 (4) A. - disseminated runway conditions, taking
 (5) information from say Northern Air Cargo, Mark Air,
 (6) Alaska Airlines, whoever it was flying in relaying
 (7) information. We did diversions out of Bethel. We
 (8) would relay information for the pilots, pretty much
 (9) anything that was required for the safe operation of
 (10) the aircraft.
 (11) Q. The UNICOM license was issued to whom at that
 (12) place where you were at?
 (13) A. I believe the State of Alaska.
 (14) Q. And you were working for the state at that
 (15) time?
 (16) A. That's correct. I was a state airport
 (17) manager.
 (18) Q. And who was operating it during the 8 to 5
 (19) time?
 (20) A. Well, when I left Mark Air was operating.
 (21) Q. That's a private entity?
 (22) A. Yeah, that's an airline.
 (23) Q. So this was a public/private joint
 (24) arrangement, was that the way it worked?
 (25) A. I have no idea. I never saw any of the

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(1) paperwork. I was new to it at that time, and I just
 (2) assumed that's the way it was done.
 (3) Q. Okay.
 (4) A. That's the way it was presented to me when I
 (5) took over so I never questioned it.
 (6) Q. And when was that, Mr. Cummings, during what
 (7) period of time?
 (8) A. Let's see. I went to work there October
 (9) 1984, and I left their employ in June of '91.
 (10) Q. Have you had any opportunities to use the
 (11) UNICOM since then?
 (12) A. Down here we operate on what they classify as
 (13) CTAF.
 (14) Q. Right. The same frequency?
 (15) A. Yes, it is.
 (16) Q. Okay. But in so doing you're not operating
 (17) as a UNICOM operator, are you?
 (18) A. Technically, no.
 (19) Q. What kind of inspections have you made at
 (20) Resort Aviation?
 (21) A. Mostly fueling. We've inspected tie-downs.
 (22) Well, we inspected tie-downs on the whole airport,
 (23) which included Resort Aviation when it was - that was
 (24) done some number of years ago, fencing. It depends on
 (25) what situation comes up that requires an inspection.

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(1) But the routine inspections done at Resort for
 (2) compliance are mostly fueling inspection.
 (3) Q. Resort acquired the facility that Empire
 (4) Airlines had out there -
 (5) A. That's correct.
 (6) Q. - some time back?
 (7) A. Uh-huh.
 (8) Q. Could you describe in general what the Resort
 (9) facility is?
 (10) A. Excuse me?
 (11) Q. What does Resort Aviation got out there at
 (12) the Coeur d'Alene Airport?
 (13) A. Well, they have 1, 2, 3 - they own three
 (14) buildings just south of the old airport office. They
 (15) lease the county hanger. They purchased the old LP
 (16) corporate facility.
 (17) Q. Louisiana Pacific corporate facility?
 (18) A. Yeah. And they have the old Empire
 (19) hanger/office or lobby. and then there's another hanger
 (20) just south of that and - then they do lease, I
 (21) believe, 15 tie-downs from the county. There's a
 (22) tie-down apron on the south of their entire complex,
 (23) and they lease 15 of those tie-downs from us.
 (24) Q. And what kind of fuel facility do they have?
 (25) A. The old fueling facility, at the original

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(1) Resort complex, has two pumps, rather old, but they're
 (2) - they've brought them into the compliance.
 (3) They've also got a newer Jet A pump facility,
 (4) which was installed prior to my coming to work here.
 (5) In between the county hanger and the old airport office
 (6) there's an underground tank configuration that is
 (7) hooked to the old original pump facility.
 (8) At the old LP facility they have a Jet A
 (9) cabinet. I believe that's a 12,000 gallon underground
 (10) tank. I know it's an underground tank. They just had
 (11) it relined, and they've got four fuel trucks. I don't
 (12) believe that there's any other underground fuel tanks
 (13) or storage tanks.
 (14) Q. Okay. How would you describe the condition
 (15) of their fueling facility?
 (16) A. At this point in time they're in pretty good
 (17) shape. They've always tried to work hard to, you know,
 (18) come into compliance if there's a deficiency.
 (19) Q. You haven't had any trouble with them coming
 (20) into compliance as far as their fuel flowage, I mean,
 (21) as far as as their fuel facility?
 (22) A. Trouble, as in?
 (23) Q. Well, I mean they've been responsive when
 (24) complaints have been made?
 (25) A. They've always tried to bringing things up to

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(1) standards.
 (2) O. is there any other fueling facility out there
 (3) available to the general pilot fly-in?
 (4) A. As far as purchase?
 (5) a. Yes.
 (6) A. Yes.
 (7) Q. Who is that?
 (8) A. Southfield Fuel, they've got a self-fueling
 (9) facility. And again, I believe he's got two 12,000
 (10) gallon underground tanks. I'd have to **look** at the
 (11) print, but he's got underground, two tanks there: One
 (12) is av-gas and one is Jet A. And then he's got a tanker
 (13) truck and an av-gas truck. One is Jet A and one is
 (14) av-gas.
 (15) O. That's Southfield?
 (16) A. Right, Southfield Fuel.
 (17) O. Are there any others?
 (18) A. Not legal to sell fuel to the public, no.
 (19) There are other fueling facilities on the airport, yes.
 (20) Q. Have you had any discussions with the Larry
 1211 Booher about the possible use of the UNICOM system?
 (22) A. I've had several discussions in the past
 (23) couple years.
 1241 Q. What were those discussions?
 (25) A. Well, the whole thing started after they were

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(1) had indicated to them that we operate on CTAF
 (2) announcing in the blind when we cross a runway. And
 (3) when we have a runway closed and there's nobody to
 (4) operate the UNICOM, we talk with aircraft departing and
 (5) approaching Coeur d'Alene as a safety issue.
 (6) It's also required for us by the FAA to
 (7) monitor frequencies when we are on the movement
 area.
 (8) And he said there was no problem with that; that the
 (9) FCC would never conflict with FAA regulations. And
 (10) it's a life safety issue for both the pilots and for my
 (11) crew.
 (12) Q. So that was not a problem?
 (13) A. Pardon?
 (14) O. That was not a problem?
 (15) A. Kris McGowan was unaware. This was the first
 (16) UNICOM issue - I assume she's fairly new to the FCC -
 (17) this is the first time she had ever delved into that.
 (18) She said what you need to do is apply for your own
 (19) license, and after discussions with her, I talked to
 (20) Dennis Anderson. I also talked with Donald Marsh who
 (21) at the time was with the License Bureau of the FCC in
 (22) Washington D.C.. and he said as long as you guys have
 (23) an RCO and an RTR you should have your own license:
 (24) that's not a problem.
 (25) Mr. Booher had also talked with Hans Dyroy of

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(1) cited by the FCC for, I guess, supposed illegal use of
 (2) it. As it was explained to me by Kris - and I can't
 (3) remember her last name - she's from the FAA, for the
 (4) FCC Field Office in Seattle - Kris McGowan.
 (5) O. McGowan?
 (6) A. Came out and cited them.
 (7) O. Booher for the illegal use of the UNICOM?
 (8) A. That's what she told me she was there for,
 (9) yes.
 (10) Q. Okay.
 (11) A. After that, Mr. Booher came to the office and
 (12) asked me about the UNICOM license. And as I had
 (13) indicated to him, I don't understand why you don't
 (14) apply for your own license. We have an RCO at the
 (15) field. We have an RTR on the field. According to the
 (16) regulations we're only allowed one UNICOM frequency
 but
 (17) multiple licenses of the frequency.
 (18) And they pursued pondering that and got
 (19) copies of CFR Form 1487 from myself pertaining to the
 (20) UNICOM. And Ms. McGowan had also indicated that it
 was
 (21) mentioned, although not in writing to the FCC. that the
 (22) airport was illegally using the UNICOM.
 (23) And I had talked both to Kris McGowan and
 (24) Dennis Anderson of the FCC Field Office in Seattle as to
 (25) our position at the airport as the owneroperator. And

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(1) Action Flying Service, which was in, I don't know,
 (2) maybe it was a week later. Was in for coffee in the
 (3) morning, and he asked us about the situation. And I
 (4) said according to the regulations as long as we have an
 (5) RCO and the RTR located on the airport we are entitled
 (6) to multiple licenses, and he had indicated to me at
 (7) that time he would be interested.
 (8) O. So the contemplation at that time was that
 (9) the - that Booher could apply for a UNICOM license -
 (10) A. Under the regulations.
 (11) O. - and Action could apply for a license?
 1121 A. Yes.
 (13) Q. - and you, the airport, could apply for the
 (14) license?
 (15) A. That's correct, on the same frequency. We're
 (16) only allowed one frequency -
 (17) O. All under one frequency?
 (18) A. - with multiple licensing according to the
 (19) regulations.
 (20) Q. So you could end up with, based on this
 1211 initial inquiry. at least four UNICOM licenses from the
 (22) same frequency?
 (23) A. And that is exactly why - my second
 (24) conversation with Donald Marsh, he said - he
 suggested
 (25) to me, instead of us having four licenses let me make a

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(1) cut into it. It's just like a hard line system,
 (2) because their radio talks to our radio. Our radio
 (3) talks to the pilot. It all goes out our antenna, and
 (4) the electronics on it are very simple. And you can't
 (5) step on someone else once it's keyed.
 (6) O. Can you cut in?
 (7) A. No. Well, that's what I mean. You can't
 (8) step on it. You can't cut into it.
 (9) Q. Well, explain to me what you mean by step on?
 (10) A. If someone is talking on a frequency, okay,
 (11) let's say this guy has got a five watt output, and this
 (12) guy over here, this FBO, has a license for seven and a
 (13) half watts and Resort is talking to someone. And Hans
 (14) says, well, I want that one. Hans keys his mic and it
 (15) knocks them out and steps on them, cuts them off.
 (16) O. Cut them off?
 (17) A. Because he's putting out more power. We buy
 (18) the radios. We supply the radios and their all five
 (19) watt. Everybody is on an equal playing field. Once
 (20) it's keyed nobody else can bump them off.
 (21) Q. So then the description you've given Action
 (22) could not cut in on what Resort was doing?
 (23) A. That's correct. Resort could not cut off
 (24) Southfield, and everybody is on a fair playing field.
 (25) It's all equal. That's -- like I say, that's one of

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(1) the best options we have heard, and it's something
 (2) we've looked into. It's not cheap, but it is fair.
 (3) Q. Was it anticipated that the Coeur d'Alene
 (4) Airport itself would operate the UNICOM?
 (5) A. Well, we need to. We're there at 3 o'clock
 (6) in the morning plowing snow on many, many, many
 (7) times.
 (8) Even in the evenings and on weekends we've been out
 (9) there and had aircraft calling for UNICOM and no
 (10) response. So we do operate. We answer them on CTAF.
 (11) O. You answer them on CTAF?
 (12) A. They see our lights out there. They call
 (13) airport maintenance. We hear them call three or four
 (14) times at 2 o'clock in the morning and don't get any
 (15) answer. I'm going to talk to the guy, because I got
 (16) six people out there plowing snow. You bet I'm going
 (17) to answer them.
 (18) Q. So you do get that communication. You do
 (19) respond --
 (20) A. Yes.
 (21) Q. -- at the present time?
 (22) A. We tell them what we're doing, what runway is
 (23) closed, what the conditions are and find out their
 (24) intentions.
 (25) Q. And in order to do that you don't need a
 UNICOM license?

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(1) A. According to the FCC they won't violate us.
 (2) Q. This is because it's a safety arrangement?
 (3) A. It's a life safety issue both for the
 (4) aircraft and my personnel, yes. absolutely.
 (5) Q. Double safety?
 (6) A. Right. Absolutely.
 (7) Q. So it actually has not created a problem in
 (8) terms of violating the FCC rules or regulations or
 (9) whatever?
 (10) A. It depends on who you talk to. Donald Marsh
 (11) and Donald Anderson both said the same thing. CTAF is
 (12) an FAA terminology. UNICOM is FCC terminology, and
 (13) in the Green Book it lists it as CTAF/UNICOM. And CTAF is
 (14) Common Traffic Advisory Frequency, and part of our
 (15) job,
 (16) we're required to be out there. And I would think
 (17) anybody that would want to land at that airport would
 (18) want to know there's a snowplow going down there at
 50
 (19) miles an hour.
 (20) Q. Or not moving, either way?
 (21) A. Yeah. But they did -- again, they did
 (22) recommend that because, you know, once they found
 (23) out
 (24) we had an RCO they said, well, that's simple, apply for
 (25) a license. So we're not going to violate you if you
 don't get one, but apply for a license.
 Q. Apply for a license. Now the arrangement

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(1) that you're talking about, does this then imply that
 (2) these other three would also have licenses?
 (3) A. No.
 (4) O. Just one license?
 (5) A. What we want is the only UNICOM license. And
 (6) this is at the recommendation of the FCC. This isn't
 (7) my idea, because it's more trouble than it's worth. to
 (8) be quite honest with you. The license would be issued
 (9) to Kootenai County, okay. Inturn, by letter of
 (10) agreement, we would agree to let Resort Aviation
 (11) operate off of our license, as we would allow Heli-Prop
 (12) to operate off of our license, as we would allow Action
 (13) Aviation. I mean, technically, if Panhandle Helicopter
 (14) changes a few things, they can legally sell fuel out of
 (15) the facility they have. They could turn around and
 (16) petition us for a letter of agreement to operate it.
 (17) Then you've got 20 people out there, if they qualify.
 (18) Q. You could potentially have 20 people, though?
 (19) A. Sure, unless you limit it. And we have -- we
 (20) haven't even gotten to that point yet.
 (21) Q. But you could contemplate limiting it?
 (22) A. I would think we would.
 (23) O. Now, would you limit it so that an FBO would
 (24) not be eligible?
 (25) A. I don't --

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(1) either written or verbal, oral, to you by Mr. Black
 (2) concerning the UNICOM operation?
 (3) A. Well, I believe he had had some conversation
 (4) with – I'm not sure if it was Larry Booher as far as
 (5) some complaints about bias on the UNICOM, not
 (6) mentioning their facility. He asked me about that
 (7) and –
 (8) Q. Was there any ultimate report that came from
 (9) Mr. Black about the UNICOM?
 (10) A. I don't know. I've seen this one before.
 (11) Q. I have not seen any other document except
 (12) this one.
 (13) A. Well, it seemed to me there was another page
 (14) with this. I was unaware that he had talked to
 (15) Valetta. I believe this came in some time after John's
 (16) visit.
 (17) Q. Okay. Has Mr. Black been back?
 (18) A. I get him confused. His brother works for
 (19) the FAA, too, Jim.
 (20) Q. Okay.
 (21) A. John was back just a couple of the week ago.
 (22) Q. Okay.
 (23) A. I mean, he's been in and out of the airport.
 (24) I don't see him all the time.
 (25) Q. Well, has there been any other investigation

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(1) This was when it was locked down all night, I believe.
 (2) Q. That was in the headline. Does that seem to
 (3) be a fairly comprehensive response to the problem?
 (4) A. Yeah, I would think so.
 (5) Q. Are there any other problems that you can
 (6) currently think of with the operation by Resort
 (7) Aviation with its UNICOM?
 (8) A. In what manner?
 (9) Q. in the last two or three years?
 (10) A. As far as their operation of it?
 (11) Q. Yeah, uh-huh.
 (12) A. We sent copies of the regulations down there
 (13) when requested, as far as proper terminology and not -
 (14) not giving any ATC, and I – the Federal regulations
 (15) are vague, but they're specific. They leave a little
 (16) bit for interpretation. And air traffic control on
 (17) UNICOM is prohibited, and most of it is semantics. But
 (18) they – it indicated they hadn't had any copy of the
 (19) regulations.
 (20) You can tell an aircraft what the last
 (21) aircraft landed on as far as runways, and you can tell
 (22) them what the designated calm wind runway is. When
 (23) you start telling an aircraft that they should land on
 (24) Runway 5 or Runway 23, whatever the case is, you're
 (25) starting to do air traffic control, and I don't think

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(1) by Mr. Black on the UNICOM situation?
 (2) A. Since this?
 (3) Q. Yeah.
 (4) A. Not that I'm aware of.
 (5) Q. Okay. Are you aware of any problems with
 (6) Resort Aviation's operation of the UNICOM?
 (7) A. Just the microphone locked, that's locked
 (8) down on them two or three times. And that's the type
 (9) of button where if you push it and draw it to you, it
 (10) had a little tab on the bottom. I can't understand why
 (11) anybody would build anything like that; that's been
 (12) locked down a couple two or three times. I think they
 (13) either replaced it or cut the tab off of it. I don't
 (14) know which.
 (15) Q. Let me show you something here, if I can.
 (16) I've got all the exhibits. Exhibit 7 is a letter of
 (17) August 30 of 2002, from Mr. Miller directed to Greg
 (18) Delavan. Have you seen that letter?
 (19) A. I probably have, yeah.
 (20) Q. In that letter the indication is that Resort
 (21) was replacing the microphone?
 (22) A. Okay.
 (23) Q. Have you had any problems since that with a
 (24) locked microphone to your knowledge?
 (25) A. Not that I'm aware of, I don't believe so.

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(1) that they really want to get into that. That gets into
 (2) some liability and some different issues.
 (3) And we called, and I'm not sure if it was
 (4) Mary Ann. I don't remember who the little gal was. and
 (5) they were unaware of that. Tom Carlson was there at
 (6) the time, and Tom said he wasn't aware of any of that.
 (7) And we had taken a copy of the 14 CFR 87 down there,
 (8) as far as the guidelines for the dissemination of
 (9) information to them.
 (10) Q. When was that about?
 (11) A. God, that's been – that's probably a couple
 (12) of years ago, a couple of two or three years ago.
 (13) Q. Okay. Any problems since then in that
 (14) regard?
 (15) A. Not that I've witnessed personally.
 (16) Q. Okay. Exhibit 8 is – from the Delavan
 (17) Deposition – there's a memorandum to you from
 (18) Ms. McGowan. Are you familiar with that?
 (19) A. No. I've never seen this one. But if I did,
 (20) I didn't pay much attention to it. This is going off
 (21) of the application, okay.
 (22) Q. It's addressed to you, have you not seen it?
 (23) A. That wouldn't be uncommon if it came with the
 (24) application. Mary and Jennie filled the application
 (25) out for me. I provided the pertinent information.